

RESOLUTION OF THE TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY TAKING OFFICIAL ACTION TOWARD APPOINTING FRECKLE FACE REALTY, LLC, A NEW YORK LIMITED LIABILITY COMPANY, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF FRECKLE FACE REALTY, LLC AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF THE FOREGOING AND KELCO CONSTRUCTION, INC., A NEW YORK BUSINESS CORPORATION, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF KELCO CONSTRUCTION, INC. AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING AS AGENT(S) OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING AND EQUIPPING THE FACILITY, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE FACILITY.

WHEREAS, Freckle Face Realty, LLC, a New York limited liability company on behalf of itself and/or the principals of Freckle Face Realty, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”), and Kelco Construction, Inc., a New York business corporation, on behalf of itself and/or the principals of Kelco Construction, Inc. and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Sublessee**”), have applied to the Town of Islip Industrial Development Agency (the “**Agency**”) to enter into a transaction in which the Agency will assist in the acquisition of an approximately 2.8 acre parcel of land located at 25 Newton Place, Hauppauge, Town of Islip, New York (the “**Land**”), the demolition of an existing approximately 11,352 square foot building located thereon and the construction and equipping of an approximately 32,000 square foot building, including, but not limited to, site improvements, full landscaping, design, improved parking (the “**Improvements**” and “**Equipment**”; and, together with the Land, the “**Facility**”), all to be located on the Land, which Facility will be leased by the Agency to the Company, for further sublease by the Company to, and used by, the Sublessee as a storage, maintenance and office facility in its business as a landscape contractor, including the following as they relate to the appointment of the Company and the Sublessee as agent(s) of the Agency pursuant to Section 5 hereof with respect to the acquisition, demolition, construction and equipping of such Facility, whether or not any materials or supplies described below are incorporated into or become an integral part of such Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with the acquisition, demolition, construction and equipping of the Facility, (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with the acquisition, demolition, construction and equipping of the Facility, and (iii) all purchases, leases, rentals and uses of equipment, machinery and other tangible personal property (including installation costs with respect thereto) installed or placed in, upon or under such Facility; and

WHEREAS, the Agency will acquire title to or a leasehold interest in the Facility and will lease or sublease the Facility to the Company for further sublease by the Company to the Sublessee, all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of

New York, as amended, and Chapter 47 of the Laws of 1974 of the State of New York, as the same may be amended from time to time (collectively, the “**Act**”); and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company and the Sublessee, consistent with the policies of the Agency, in the form of exemptions from mortgage recording taxes, if a mortgage is required, in connection with the acquisition, demolition, construction and equipment financing or any subsequent refinancing or permanent financing of the Facility, exemptions from sales and use taxes and abatement of real property taxes, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, prior to the closing of the transaction described herein, a public hearing (the “**Hearing**”) will be held so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency or the location or nature of the Facility can be heard; and

WHEREAS, notice of the Hearing will be given prior to the closing of the transaction described herein, and such notice (together with proof of publication) will be substantially in the form annexed hereto as Exhibit A; and

WHEREAS, the minutes of the Hearing are or will be annexed hereto as Exhibit B; and

WHEREAS, the Agency has given due consideration to the application of the Company and the Sublessee and to representations by the Company and the Sublessee that the proposed transfer of real estate is either an inducement to the Company and/or the Sublessee to maintain and expand the Facility in the Town of Islip or is necessary to maintain the competitive position of the Company and the Sublessee in their respective industry; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the “**SEQR Act**” or “**SEQR**”), the Agency constitutes a “State Agency”; and

WHEREAS, to aid the Agency in determining whether the Facility may have a significant effect upon the environment, the Company has prepared and submitted to the Agency an Environmental Assessment Form and related documents (the “**Questionnaire**”) with respect to the Facility, a copy of which is on file at the office of the Agency; and

WHEREAS, the Questionnaire has been reviewed by the Agency.

NOW, THEREFORE, BE IT RESOLVED by the Town of Islip Industrial Development Agency (a majority of the members thereof affirmatively concurring) that:

Section 1. [Based upon the Environmental Assessment Form completed by the Company and the Sublessee and reviewed by the Agency and other representations and information furnished by the Company regarding the Facility, the Agency determines that the action relating to the acquisition, demolition, construction, equipping and operation of the Facility is an “unlisted” action, as that term is defined in the SEQR Act. The Agency also determines that the action will not have a “significant effect” on the environment, and, therefore, an environmental impact statement will not be prepared. This determination constitutes a negative declaration for purposes of SEQR. Notice of this determination shall be filed to the extent required by the applicable regulations under SEQR or as may be deemed advisable by the Chairman or Executive Director of the Agency or counsel to the Agency.] – confirm with Ruth prior to April 23, 2013

Section 2. The acquisition, demolition, construction and equipping of the Facility by the Agency, the leasing thereof to the Company and the subleasing thereof to the Sublessee, and the provision of financial assistance pursuant to the Act will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the Town of Islip and the people of the State of New York and improve their standard of living, and thereby serve the public purposes of the Act, and the same is, therefore, approved.

Section 3. The form and substance of a proposed inducement agreement (in substantially the form presented to this meeting) by and among the Agency, the Company and the Sublessee setting forth the undertakings of the Agency, the Company and the Sublessee with respect to the development of the Facility (the “**Agreement**”) is hereby approved. The Executive Director of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, with such changes in terms and form as the Executive Director shall approve. The execution thereof by the Executive Director shall constitute conclusive evidence of such approval.

Section 4. Subject to the conditions set forth in Section 4.02 of the Agreement, the Agency shall (i) acquire, construct and equip the Facility, and (ii) lease (with an obligation to purchase) or sell the Facility to the Company.

Section 5. The Company and the Sublessee are hereby appointed the true and lawful agent(s) of the Agency to acquire, demolish, construct and equip the Facility on behalf of the Agency, with the authority to delegate their respective status as agent(s) of the Agency to the Company's and the Sublessee's respective agents, subagents, contractors, subcontractors, suppliers, vendors and other such parties as the Company and the Sublessee may choose. The terms and conditions for the appointment of the Company and the Sublessee as agent(s) of the Agency for the purposes described in this Section 5 are set forth in the form of the attached letter addressed to the Company and the Sublessee, marked as Exhibit C to this resolution, which is incorporated herein by reference. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company and the Sublessee as agent(s) of the Agency solely for purposes of making sales or leases of goods, services and supplies to the Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Company and the Sublessee, as agent(s) of the Agency, shall be deemed to be on behalf of the Agency and for the benefit of the Facility. This agency appointment expressly excludes the purchase by the Company and the

Sublessee of any motor vehicles, including any cars, trucks, vans or buses which are licensed by the Department of Motor Vehicles for use on public highways or streets. The Company and the Sublessee shall indemnify the Agency with respect to any transaction of any kind between and among the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Company and the Sublessee, as agent(s) of the Agency. The aforesaid appointment of the Company and the Sublessee as agent(s) of the Agency to acquire, demolish, construct and equip the Facility shall expire at the earlier of (a) the completion of such acquisition, demolition, construction and equipping or (b) such date as the Agency designates; provided however, such appointment may be extended at the discretion of the Agency, upon the written request of the Company and/or the Sublessee if such activities and improvements are not completed by such time. The aforesaid appointment of the Company and the Sublessee is subject to the Agency conducting a public hearing following public notice thereof as required by the Act and the adoption by the Agency of a ratification resolution after such public hearing has been held and minutes thereof have been made available to the members of the Agency to aid in their deliberations.

Section 6. The Company and the Sublessee hereby agrees to comply with Section 875 of the Act. The Company and the Sublessee further agree that the exemption of sales and use tax provided pursuant to the Act and the appointment of the Company and the Sublessee as agents of the Agency pursuant to this Inducement Resolution is subject to termination and recapture of benefits pursuant to Section 875 of the Act and the Recapture Agreement.

Section 7. Counsel to the Agency is authorized and directed to work with Transaction Counsel (Nixon Peabody LLP) to prepare, for submission to the Agency, all documents necessary to affect the transfer of the real estate described in the foregoing resolution.

Section 8. The Chairman, Executive Director, counsel to the Agency and all members of the Agency are hereby authorized and directed (i) to distribute copies of this resolution to the Company and the Sublessee, and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 9. This resolution shall take effect immediately.

STATE OF NEW YORK)
 : SS.:
COUNTY OF SUFFOLK)

I, the undersigned Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY THAT:

I have compared the foregoing copy of a resolution of the Town of Islip Industrial Development Agency (the “**Agency**”) with the original thereof on file in the office of the Agency, and the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.

Such resolution was passed at a meeting of the Agency duly convened in public session on April 23, 2013, at Islip Town Hall, 655 Main Street, Islip, New York, at which meeting the following members were:

Present: Supervisor Tom Croci
 Councilwoman Trish Bergin Weichbrodt
 Councilman John Cochrane
 Councilman Steve Flotteron
 Councilman Anthony Senft

Absent:

Also Present: Yes

The question of the adoption of the foregoing resolution was duly put to vote on roll call, which resulted as follows:

Voting Aye

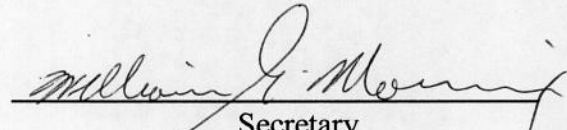
Supervisor Tom Croci
Councilwoman Trish Bergin Weichbrodt
Councilman John Cochrane
Councilman Steve Flotteron
Councilman Anthony Senft

and, therefore, the resolution was declared duly adopted.

The Agreement and the Application are in substantially the form presented to and approved at such meeting.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), (ii) said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections 103a and 104, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand as of April 23, 2013.


Secretary